

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

APPLICANTS: HERSH, CLIFFORD L.

SERIAL NO.: 09/701,797

FILING DATE: December 1, 2000

TITLE: Method for Increased Concurrency In a Computer System

EXAMINER: Unknown

ART UNIT: Unknown

ATTY. DKT. NO.: PA1675US

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to:
Attention: Assistant Commissioner for Patents, Box PCT, Washington, D.C.
20231, Attention: PCT Legal Office, on April 2, 2003.

Date: 4/2/03 Signed: Stefanie Howell
April 2, 2003 Stefanie Howell

Assistant Commissioner for Patents
Box PCT
Washington, DC 20231
Attention: PCT Legal Office

Renewed Petitions

SIR:

In response to the Decision on Petition under 37 CFR 1.147(a) and Renewed Petition Under 37 CFR 1.137(b), mailed February 19, 2003, please consider the following request for reconsideration of the Petition for Revival Of An Application For Patent Abandoned Unintentionally and submission of a supplemental declaration to correct deficiencies of an earlier filed declaration.

According to the Decision on Petition under 37 CFR 1.147(a) and Renewed Petition Under 37 CFR 1.137(b), mailed February 19, 2003, Applicants have satisfied the petition fee required by law, the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional, and any terminal disclaimer pursuant to 37 CFR 137(c) (where required). Accordingly, Applicants need only submit the required reply in the present case in order to revive the application.

As stated in the responses submitted by Applicants in October 2001 and July 2002, Applicants believe that the declarations submitted by Clifford Hersh and Joan Todd, the legal representative of deceased inventor Herb Sullivan, satisfy the declaration requirements. However, the PCT Legal Office has continuously rejected these declarations as imperfect citing the failure to list Clifford Hersh's citizenship and mailing address on Joan Todd's declaration as the imperfection.) *Falso*

The response that Applicants submitted on November 27, 2002 included a newly executed declaration by Clifford Hersh. The newly executed declaration by Clifford Hersh included his name, citizenship, signature, and mailing address, as well as the name of Herb Sullivan, the name of his legal representative, Joan Todd, at the time the earlier declaration was submitted by Joan Todd, her citizenship, and her mailing address when she was living. Accordingly, the newly executed declaration by Clifford Hersh perfected Joan Todd's earlier filed declaration, signed by her when she was living and was still Herb Sullivan's legal representative.

MPEP section 602.02 states that "where neither the original oath or declaration, nor the substitute oath or declaration is complete in itself, but each oath or declaration names all of the inventors and the two taken together give all the required data, no further oath or declaration is needed." As discussed herein, the PCT Legal Office asserts that Joan Todd's declaration is not complete for failure to list Clifford Hersh's mailing address and country of citizenship. Clifford Hersh's newly executed declaration is perfect except that it is missing the signature of Joan Todd. Accordingly, the original declaration from Joan Todd and the newly executed declaration from Clifford Hersh taken together give all the required data. Thus, no further oath or declaration is needed.

Further, CFR section 1.67 allows for the submission of a supplemental oath or declaration meeting the requirements of 1.63 or 1.162 to correct any deficiencies or inaccuracies present in the earlier filed oath or declaration. 1.67(a)(2) states that "deficiencies or inaccuracies relating to fewer than all of the inventor(s) or applicant(s)... may be corrected with a supplemental oath or declaration identifying the entire inventive entity but signed only by the inventor(s) or applicant(s) to whom the error or deficiency relates." The deficiency in Joan Todd's declaration related only to Clifford Hersh, since the declaration would have been perfected but for the failure to list Clifford Hersh's country of citizenship and mailing address. Thus, the later filed declaration from Clifford Hersh corrects these deficiencies and can be treated as a supplemental declaration correcting the deficiencies of the earlier filed Joan Todd declaration.

yes
No (dates)
to Herb

Finally, the MPEP cites several examples of when a supplemental oath may appropriately be utilized. Example 1 presents the scenario of an application filed with a declaration under 37 CFR 1.63 executed by inventors A,B, and C. "If it is later determined that the citizenship of inventor C was in error, a supplemental declaration identifying inventors A,B, and C may be signed by inventor C alone correcting C's citizenship," according to Example 1. Similarly, Joan Todd's declaration was in error with respect to Clifford Hersh's mailing address, citizenship, and signature. Thus, a supplemental declaration identifying Herb Sullivan, his legal representative Joan Todd at the time of the earlier submitted declaration, Clifford Hersh's mailing address, and Clifford Hersh's citizenship may be signed by Clifford Hersh to correct the information missing from Joan Todd's earlier submitted declaration.

Example 4 presents a similar scenario. In example 4, an application is filed with a declaration under 37 CFR 1.63 executed by inventors A and B. Because of an error in the mailing address of inventor B, a supplemental declaration identifying the entire inventive entity and signed by inventor B alone can be submitted. Respectfully, therefore, it is Applicants' position that the required reply has been submitted.

Applicants believe that no fees are associated with the aforementioned submissions. However, the PCT Legal Office is hereby authorized to charge deposit account 06-0600 should any fees be incurred in association with the present Renewed Petition under 37 CFR 1.47(a) and Renewed Petition under 37 CFR 1.137(b).

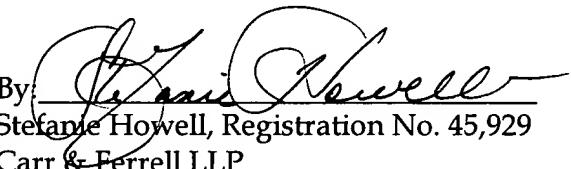
CONCLUSION

In view of the foregoing, a decision in favor of a revival of the present application is respectfully requested.

If the Examiner believes that a conference would facilitate prosecution of this application, the Examiner is invited to telephone Applicant's representative, undersigned, at the number set out below.

Respectfully submitted,
Clifford L. Hersh

Date: 4/2/03

By: 
Stefanie Howell, Registration No. 45,929
Carr & Ferrell LLP
2225 East Bayshore Road, Suite 200
Palo Alto, California 94303
Phone (650) 812-3442
FAX (650) 812-3444

EV194331222US

Please type a plus sign (+) inside this box → +

PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

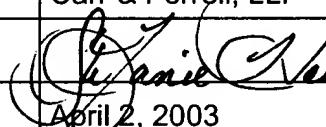
(to be used for all correspondence after initial filing)

		Application Number	09/701,797
		Filing Date	December 1, 2000
		First Named Inventor	Clifford L. Hersh
		Group Art Unit	Unknown
		Examiner Name	Unknown
Total Number of Pages in This Submission	6	Attorney Docket Number	PA1675US

ENCLOSURES (check all that apply)

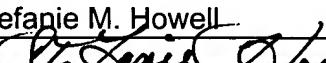
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Reply	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Renewed Petition 37 CFR 1.137(b)	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	(1) Renewed Petitions Under 37 CFR 1.147(a) and 37 CFR 1.137(b);
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	(2) Confirmation Postcard
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		
Total page number does not include postcard.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Carr & Ferrell, LLP Cust. No. 22830	
Signature	 Reg. No. 45,929	
Date	April 2, 2003	

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Assistant Commissioner for Patents, Box PCT, Washington, DC 20231 on this date: April 2, 2003

Typed or printed name	Stefanie M. Howell	
Signature		Date April 2, 2003

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.